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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,394	10/11/2002	Paul Bryan Cadima	9D-RG-19957	2787

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JOHN S. BEULICK  
C/O ARMSTRONG TEASDALE, LLP  
ONE METROPOLITAN SQUARE  
SUITE 2600  
ST LOUIS, MO 63102-2740

EXAMINER

FERKO, KATHRYN P

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/065,394	CADIMA, PAUL BRYAN
	<b>Examiner</b>	<b>Art Unit</b>
	Kathryn Ferko	3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 October 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-13, 17-20, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sparks in Des. 378,885.

**A labeled figure has been provided in an Appendix.**

With regard to claims 1-3 and 5, Sparks discloses a cooking grate (shown generally in figure 2) having a frame with an exterior frame element (shown in green in the Appendix); at least one interior frame element (shown in yellow in the Appendix) having a cooking utensil supporting surface (shown by dashed blue or pink lines in the Appendix) elevated from the exterior frame element, as seen in figure 3; at least one recessed surface (shown by orange cross-hatched lines in the Appendix) extending from the cooking utensil supporting surface where a top of the recessed surface is separated from the top of the cooking utensil supporting surface, thereby providing a gap for passage of a burner flame, as seen in figures 2 and 3; a grate having a first interior element (labeled in the Appendix) and a second interior element (labeled in the Appendix) where each of the first interior element and second interior element have a recessed surface, as seen in figures 2 and 3; a plurality of support fingers (shown in red in

the Appendix) extending from the interior frame element and exterior frame element; and a cooking grate the is substantially rectangular, as seen in figure 2.

Regarding claims 6-10, Sparks discloses a grate assembly for a cooking appliance having at least one exterior frame element (shown in green in the Appendix); at least one support finger (shown in red in the Appendix) extending from the frame where the support finger has a top surface extending above at least one exterior frame element, as seen in figure 3; at least one interior frame element (shown in yellow in the Appendix) having a top surface extending above the exterior frame element, as shown in figure 3; a top surface of the interior frame element that is substantially coplanar with the top surface of the support finger, as seen in the figures; at least one recessed surface (shown by orange cross hatched lines in the Appendix) extending from the top surface of the interior frame element; the recessed surface defining a clearance for passage of a burner flame, as seen in figure 2; a first grate section (labeled in the Appendix); a second grate section (labeled in the Appendix); and a bridge spacer section (labeled in the Appendix); at least one of the first grate section and second grate section that has a cross member frame (shown in blue dashed lines in the Appendix) element substantially dividing the grate section; the at least one recessed surface located in the cross member frame element; at least one interior frame element that has a first recessed surface and a second recessed surface (denoted with orange cross hatched lines in the Appendix); and grate assembly that is substantially rectangular, as seen in figure 2.

With regard to claims 11-13 and 15, Sparks discloses a grate assembly for a gas cook top having at least one grate section having a substantially rectangular frame having at least one exterior frame element with a top surface, as shown in figure 1; at least one interior frame element (shown in green in the Appendix) with a top surface; a cross member (shown in blue dashed lines in the Appendix) frame element with a top surface where the cross member frame element extends between the exterior frame element and the interior frame element, as shown in figure 2; top surfaces of the interior cross member frame element and interior frame element that are substantially coplanar and elevated relative to a top surface of the exterior frame element, as shown generally in figure 3; at least one of the cross member frame element and interior frame element has a recessed surface (shown in orange cross hatched lines in the Appendix) extending from the coplanar surface, where the recessed surface has a flame clearance gap; a recessed surface that is approximately centered in the cross member frame element, as seen in figure 2; an interior frame element that has a first recessed portion (labeled in the Appendix) and a second recessed portion (labeled in the Appendix), where the first recessed portion and second recessed portion are located on opposite sides of the cross member, as seen in figure 2; and a bridge spacer (shown in dashed pink lines in the Appendix) having a top surface coplanar with the top surface of the interior frame element and at least one recessed portion extending from the top surface of the bridge spacer section, as seen in figure 2.

Regarding claims 17-20, Sparks discloses a gas fired cook top having at least a first gas burner and a second gas burner, as shown in figure 1; a grate assembly surrounding the first gas burner and a second burner, as shown in figure 1; the grate assembly having an interior frame element (shown in yellow in the Appendix) extending between the first gas burner and second gas burner; an interior frame element having a cooking utensil surface (shown in dashed blue lines in the Appendix) and a flame clearance recessed portion extending from the cooking utensil surface, as seen in figure 2; a grate assembly having a rectangular grate section surrounding the first burner and second burner, as seen in figure 1; a cook top with four burners, as seen in figure 1; the grate assembly having a first grate section, a second grate section, and a bridge spacer (shown in dashed pink lines in the Appendix) therebetween; an interior cross member frame element (shown in dashed blue lines in the Appendix), and a recessed portion substantially centered in the cross member frame element, as seen in figure 2.

With regard to claims 22-26, Sparks discloses a gas fired cook top having a first gas burner and an adjacent second gas burner, as seen in figure 1; a first grate section surrounding the first and second gas burners; a third gas burner and an adjacent fourth gas burner; third and fourth gas burners that are adjacent the first and second gas burners; a second grate section surrounding the third and fourth gas burners; a bridge spacer section (shown in dashed pink lines in the Appendix) extending between the first grate section and second grate

section; a top surface of each of the first grate section, second grate section, and bridge spacer (shown in blue dashed lines in the Appendix) having a substantially coplanar utensil supporting surface; a recessed portion extending from the utensil supporting surface between each adjacent gas burner, as seen in figure 2; a recessed surface portion that is substantially centered between each adjacent burner in the first and second grate section, as seen in figure 2; and at least one of the first and second grate sections that is substantially rectangular, as seen in figure 2.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 4, 14, 16, 21, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks in Des. 378,885.

Sparks discloses the invention as claimed with the exception of support fingers that are elliptical arcs and a recessed portion that is concave. On the other hand, it would be obvious to one with ordinary skill in the art at the time the invention was made to have the support fingers be elliptical arc and recessed portions that are concave, for the cut-out sections of Spark provide the same function of allowing air movement and the shape of elliptical arcs can be considered a matter of design choice.

***Conclusion***

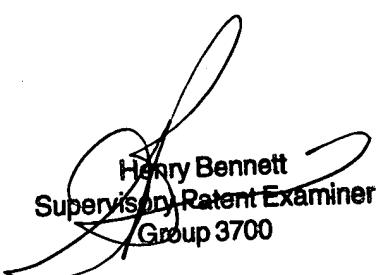
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are as follows: Des. 378,262; D458,803; Des 389,374; US Patent No. 2,005,242; Des. 343,336; US Patent No. 5,301,653; D460,320; and JP11347508.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Ferko whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KF  
March 6, 2003

  
Henry Bennett  
Supervisory Patent Examiner  
Group 3700

# Appendix

U.S. Patent

1st interior frame element  
recess

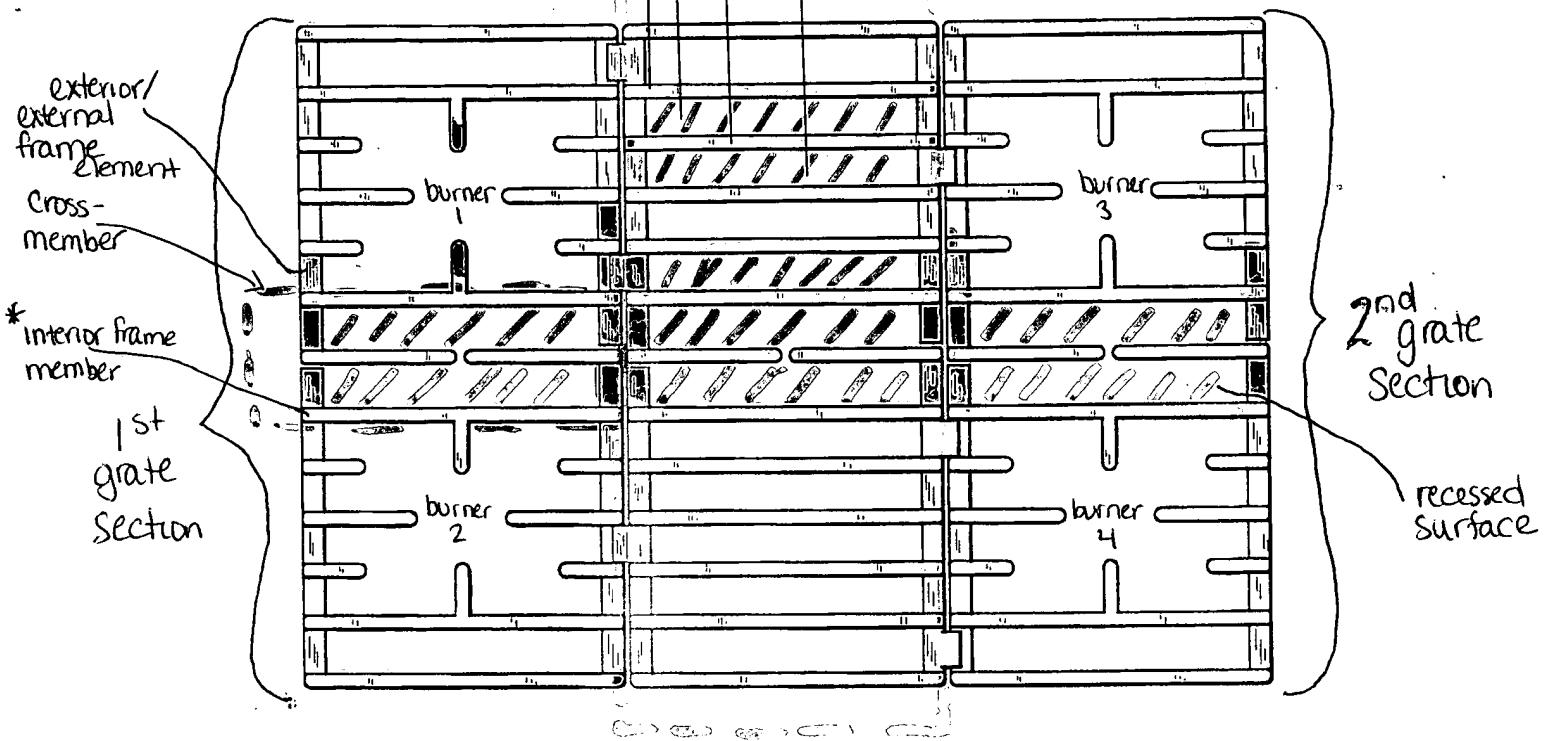
Apr. 22, 1997

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**Des. 378,885**

cooking utensil support surface  
bridged spacer

Fig.2



\* Crossmember is between  
the external and interior  
frame elements

Fig.3

